

CONCLUSION

N.J.A.C. 4A:4-4.8, the “Rule of Three,” allows an appointing authority to select any of the top three interested eligibles on an open competitive list, provided that disabled veterans and then veterans shall be appointed in their order of ranking.

N.J.A.C. 4A:4-1.1(c) provides that a promotion may be authorized through promotional examination procedures from the non-competitive division of permanent employees who meet the open competitive requirements to: 1) a related entry level title in the competitive division; 2) in appropriate situations, to a related above-entry level title in the competitive division, or 3) an unrelated entry level or above-entry level title in the competitive division, in appropriate situations, such as a classification determination.

Normally, the Commission would order the appointing authority to immediately dispose of the outstanding certification by making a permanent appointment of a reachable and interested eligible. In this case, there were four eligibles on the list. However, in the course of events, three of those individuals were subsequently certified by other appointing authorities and were removed. As such, even if the appointing authority were to dispose of the outstanding certification, there would be only one candidate, a non-veteran, on the list. In its discretion under *N.J.A.C.* 4A:4-4.8, the appointing authority’s disposal of this certification would be a moot point. Another list was issued for this title (S1175A) on September 2, 2020, with nine candidates, however, the only candidate interested in the location was removed on another certification.

Agency Services issued a pre-appointment evaluation prior to Mr. DeKnight’s provisional appointment and he was found to have met the requirements for the position. The appointing authority indicates that the position requires supervision of both internal employees and external contractors who are compensated at higher rates, and the position is in charge of a large State building complex. The appointing authority had requested an appointment type of provisional appointment pending promotional examination (PAP). Agency Services denied this request as his appointment type was provisional appointment pending open-competitive examination (PAOC), and there was a complete list from an open-competitive examination at the time. Currently, there is no complete list. DeKnight is permanent in the title Crew Supervisor Building Maintenance Worker, a title in the non-competitive division.

The record reflects that Crew Supervisor Building Maintenance Worker and Assistant Housekeeping Supervisor 1 are related titles. When DeKnight’s application for Qualifying Examination was submitted, all of his experience as a provisional Assistant Housekeeping Supervisor 1 was accepted. He also submitted

classification review documents, which were reviewed, and Agency Services determined that his position was properly classified as Assistant Housekeeping Supervisor 1. Accordingly, for equitable considerations, it is appropriate to authorize a promotional examination pursuant to *N.J.A.C.* 4A:4-1.1(c)2 and open to employees within the unit scope deemed appropriate by Agency Services in accordance with *N.J.A.C.* 4A:4-2.5(d).

ORDER

Therefore, it is ordered that this request is moot, and a promotional examination be announced in the appropriate unit scope in accordance with this decision. James DeKnight Jr. is to provide a copy of this decision with his promotional examination application upon announcement of the examination.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF AUGUST, 2021

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